



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915.773	07/26/2001	Courtney Flem Morgan	SU/V-31557P1	6895

7590 05/17/2005

GARDNER GROFF, P.C.  
PAPER MILL VILLAGE, BUILDING 23  
600 VILLAGE TRACE, SUITE 300  
MARIETTA, GA 30067

EXAMINER

MATTHEWS, WILLIAM H

ART UNIT	PAPER NUMBER
----------	--------------

3738

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/915,773

Applicant(s)

MORGAN ET AL.

Examiner

William H. Matthews (Howie)

Art Unit

3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-24 is/are pending in the application.
- 4a) Of the above claim(s) 15-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-14, 20-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 3-7-05 have been fully considered but they are not persuasive.
2. With regard to Fromberg et al, Applicant contends Fromberg et al. does not teaching rollable or foldable along an axis between the first and second flared portions. Examiner disagrees because the limitation regards intended use and furthermore defines a lens foldable along the axis along the line between the flared portions or any axis between the flared portions (which may be perpendicular).
3. With regard to Uhler et al. in view of Brady et al., Applicant contends Brady et al. does not cure the deficiencies of Uhler et al. because Brady et al. teaches folding perpendicular to the axis between the flared portions. Examiner disagrees because the limitation regards intended use and furthermore defines a lens foldable along the axis along the line between the flared portions or any axis between the flared portions (which may be perpendicular).

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3738

2. Claims 1,2,4,6,7,9,11,13,14,20-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Fromberg et al. EP 0215468.

Fromberg et al. discloses in figures 1-2 a foldable or rollable intraocular lens comprised of shape memory material wherein the optic has thickness greater than a peripheral edge thickness and two flared peripheral edge portions, having haptics attached thereto, have a thickness greater than the peripheral edge thickness.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1,2,4-7,9,11-14,20-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uhler et al. US PN 4,468,820 in view of Brady et al. US PN 5,476,513.

Uhler et al. discloses in figures 4-6 an intraocular lens comprising a lens body having a thickness greater than a peripheral edge thickness wherein the peripheral edge includes two thicker flared portions for attaching haptics. The lens body is disclosed to include PMMA. Uhler lacks the express written disclosure of the lens being foldable. Brady et al. teaches in abstract an intraocular lens comprising a foldable lens body in order to assist implantation through smaller incisions.

Art Unit: 3738

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the lens disclosed by Uhler et al. by making the lens foldable as taught by Brady et al. in order to assist implantation through smaller incisions.

5. Claims 3, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uhler et al. US PN 4,468,820 in view of Brady et al. US PN 5,476,513 as applied to claims 1 and 9 above, and in further view of Bissonette et al. US PN 4,725,276.

Uhler et al. meets the structural limitations of claims 3 and 10 as described above but lacks the express written disclosure of thermally welding the haptics to bores.

Bissonette et al. discloses an intraocular lens having haptics thermally welded to bores in order to securely attach the haptics to the lens body.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the intraocular lens disclosed by Uhler et al. by thermally welding the haptics to the bores in order to securely attach the haptics to the lens body as taught by Bissonette et al.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

Art Unit: 3738

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Matthews (Howie) whose telephone number is 571-272-4753. The examiner can normally be reached on Monday-Friday 10-6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine M. McDermott can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



WHM  
5-12-05



CORRINE McDERMOTT  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700